

REMARKS/ ARGUMENTS

This amendment is in response to the Office Action of November 16, 2004.

Applicants request a two-month extension of time. The appropriate fee is enclosed.

Claims 1-49 are pending in this application. Claims 1, 6, 9, 15, 17, 18, 23, 26, 28, 31, 37, 39 and 40 are amended herein to clarify the invention and to further distinguish the invention from the art cited by the Examiner. Claims 1 and 23 are independent. Claims 2-3, 5, 7-8, 10-14, 16, 19-22, 24-25, 27, 29-30, 32-36, 38 and 41-49 have been canceled.

The Examiner is thanked for the very helpful comments and courtesies extended in the telephone interviews with applicant and the undersigned on March 14 and March 31, 2005. The Examiner's suggestions have now been incorporated.

The claims of this application have been substantially, and indeed radically, amended to further clarify the invention and to include some new limitations. In fact, the independent claims 1 and 23 have been almost completely re-written. In light of these many changes, it is submitted that all of the objections and rejections in the Office Action of 11/16/2004 under 35 USC §§ 101, 103 and 112 have now been overcome by the major revisions to the claims, and in light of the discussion below.

In one sense, this invention could be thought of as not an "energy invention" at all. It does not talk about the "management" or "optimization" of "energy" or energy usage or energy demand per se, unlike the Smith patent 6,785,592 cited by the Examiner. Rather, this is essentially an EQUIPMENT invention. It is an invention that minimizes the per-unit cost of minimally- polluting energy generation equipment for consumers. It does that by aggregating demand to achieve volume price discounts from equipment manufacturers. The demand that is being aggregated here is a demand for equipment, not a demand for raw energy itself. And it also does that by aggregating the demand before any equipment needs to be purchased or an energy consultant or specifier visits a customer's site. In other words, the need for a consultant or specifier is "time-shifted" to a point in the future at which equipment demand has

been aggregated through contingent purchase contracts or commitments, which operate like futures contracts. In this way, substantial cost savings are achieved and, in fact, an entirely new market for minimally- polluting energy generation equipment is being created.

This clearly distinguishes the present invention from the cited Smith patent, which does not optimize equipment demand, but only optimizes “energy procurement, energy demand (usage) and energy supply” In other words, Smith is talking about raw energy itself, not the equipment used to generate the energy. (See Smith Abstract and column 2, lines 10-32.)

The equipment involved in the present invention happens to be energy generation equipment for the generation of electricity or other energy by non-polluting or minimally- polluting technologies such as solar cells, etc. But the concepts of the invention are equally applicable to other types of equipment. These concepts are reflected in the amended independent claims 1 and 23 and in the amended dependent claims. The specification provides full support for all amendments.

In particular, every element of each claim finds specific support in the specification. Starting with claim 1, the preamble begins: “A computer- implemented method” And in amended claim 23, the preamble begins: “A computer- implemented system” Support for both preambles is found in paragraph [0017] of the published application (No. US 2002/0040356), which begins: “An automated, computerized New Energy Technology Consulting and Demand Aggregation system” Support is also found in paragraph [0018] (“... data is then processed”), and in paragraph [0026] (“... software-based system”), and in paragraph [0028] (“... information would be transmitted to the main database and processing computers”), and elsewhere in the application. This support is clearly adequate to overcome the prior rejection of the application under 35 U.S.C. § 101.

Looking next at element (a) of amended claims 1 and 23, support is found in the specification in paragraphs [0004], [0017] and [0049]. Support for element (b) is found in paragraphs [009] and [0028]. Support for element (c) is found in paragraph [0021]. Support for element (d) is found in paragraphs [0032], [0033] and [0043]. Support for

element (e) is found in paragraph [0035]. Support for element (f) is found in paragraphs [0034] and [0053]. Support for element (g) is found in paragraphs [0069] to [0071] and in Figure 1. Support for element (h) is found in paragraphs [0014], [0016], [0021], [0026], [0070] and [0073], and in Figure 1. Support for element (i) is found in paragraphs [0015], [0016] and [0073]. Support for element (j) is found in paragraph [0021]. Support for element (k) is found in paragraph [0071] and in Figure 1. Support for element (l) is found in Figure 1.

Amended independent claim 23 tracks claim 1 almost exactly, except that it is in apparatus form rather than method form. Support for each element of claim 23 is found in the same paragraphs of the published application as the support for the analogous or corresponding elements of claim 1. In addition, support for element (e) of claim 23 is found in paragraphs [0009] and [0023], and support for element (i) of claim 23 is found in paragraph 14.

Looking now at the amended dependent claims, support for claims 4 and 26 is found in paragraphs [0020], [0026] – [0032], [0034] – [0035], [0038] – [0042], [0049] – [0051] and [0066]. Support for claims 6 and 28 is found in Figure 1 and in paragraphs [0003], [0018], [0036] and [0052]. Support for claims 9 and 31 is found in paragraph [0023]. Support for claims 15 and 37 is found in paragraphs [007], [0012], [0017], [0026] and [0070], and in Figure 1. And finally, support for claims 17, 18, 39 and 40 is found in paragraphs [0011], [0013], [0015] and [0075], and in Figure 1.

Regarding the references cited by the Examiner in the Office Action, applicants submit that none of these references, whether taken singly or in combination, disclose or suggest the unique combination of elements disclosed and claimed in the present application, as amended herein. Nor would a person of ordinary skill in the pertinent art be motivated to combine the references to produce the present invention.

For example, as noted above, the cited Smith patent has no relevance to the present invention because that patent discusses only the demand for raw energy itself only, not the demand for equipment, as the present invention does. Also, although Smith briefly discusses the “negotiation of energy procurement agreements” (column 2, lines 41-42), those agreements relate to the purchase of raw energy itself, not the

purchase of equipment on a bulk basis to obtain volume pricing discounts, which is a key feature of the present invention. See, for example, paragraphs [0021] and [0069] - [0073] and Figure 1.

The other references cited by the Examiner, namely Ishimaru, Ardalan, Bezos, Achon, and the "Green Schools" publication are also not applicable, because the former claims against which these references were cited have now either been radically amended to include new limitations and/or clarifications, or have been canceled altogether.

Therefore, none of the claims is anticipated or rendered obvious by any of the cited references, either taken singly or in combination.

Applicants request that the Examiner take a fresh look at this invention, in light of the radically revised claims and the discussion above. It is submitted that all claims are now allowable. Accordingly, applicants respectfully request that a timely Notice of Allowance be issued in this case.

Applicants further request that another telephone interview be scheduled with the Examiner after the Examiner has had an opportunity to review the present amendment, in order to follow up with any questions or comments that the Examiner may have.

Respectfully submitted,

By: _____



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